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DRL (JOHNSTONE), NEA/PI, AND NEA/MAG (HOPKINS/HARRIS)
LONDON AND PARIS FOR NEA WATCHER

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SUBJECT: 101 WAYS TO DENY AN NGO'S EXISTANCE

REF: A. 04 TUNIS 1343

- 1B. 04 TUNIS 517
- 1C. 04 TUNIS 513
- 1D. 04 TUNIS 701

Classified By: Ambassador Robert F. Godec for
reasons 1.4 (b) and (d)

Summary and Introduction

11. (C) What defines an NGO? Naturally, the answer to this question varies by country. But in Tunisia the essential question is not about affiliation, size, or whether an NGO is domestic or international; rather, the defining question is, "Are they registered?" Registration status determines the manner and extent to which an NGO can function (or not) in Tunisia. Despite straightforward registration laws and regulations, many civil society activists claim the laws are being manipulated to prevent legitimate organizations from registering, thus denying them a host of opportunities and benefits. As Tunisian law allows people to be prosecuted for membership in an "illegal organization," many unregistered groups also say they suffer from routine government harassment. The Ambassador and other Embassy officers will continue to raise the registration issue, within the larger context of the need for increased freedom of expression and freedom of association, with the GOT. We urge Washington agencies to do the same when opportunities arise. End Summary.

Rules and Regulations

12. (U) The rules and regulations governing the registration of a new organization are quite straightforward. Law 59-154 requires that new NGOs apply to the Ministry of Interior to gain recognition and to operate legally. According to the law, an NGO that has filed an application to register may operate freely while the Ministry processes its application. If the government does not reject the application within 90 days, the NGO is automatically registered and issued a "visa". If not legally registered, NGOs can be shut down, their property seized, and their members prosecuted for membership in an illegal organization. (Note: Article 30 of law 59-154 criminalizes membership in an unrecognized association. End Note.) These laws are not on their face particularly onerous: according to GOT officials, the number of authorized Tunisian NGOs has risen in recent years to almost 10,000, although most observers describe the majority of these groups as VGO's -- "very governmental organizations." Even so, the laws conveniently facilitate

the stymieing of many independent NGOs.

The Case of the Invisible Application

¶3. (C) The most common method of blocking the registration of independent NGOs is by refusing to provide receipts for their registration applications. Without a receipt, the organization has no evidence their application was ever filed. For example, the first time the National Council for Liberties in Tunisia (CNLT) attempted to register, in November 1999, they deposited all the necessary paperwork, but were not given a receipt. Thus there is no record that the required paperwork was ever filed. Sihem Bensedrine, the President and spokesperson for the CNLT (a human rights NGO), told PolOff on August 4 that over a period of six years, her organization had tried to register four times before giving up. The Association of the Jewish Community in Tunisia (ACJT) did not receive a receipt when they filed their paperwork in 1999, and to date are still waiting for official recognition. Unlike the CNLT, the ACJT has been able to meet without incident.

The Lights Are On, but Nobody's Home

¶4. (C) Another popular tactic is to simply refuse to accept the petition to begin with. For the CNLT's second attempt at registration, they sent their dossier by post, but the Ministry of the Interior refused delivery. After that, the CNLT tried to deliver their registration request by hand, accompanied by representatives from Human Rights Watch (HRW), the International Publishers Association, and the World Press Freedom Committee. They were met by an official who would not give his name, but said he was in charge. The official asked the delegation to wait while he consulted with Ministry officials. While the group was waiting, they observed the representatives of other organizations arriving to register and departing shortly thereafter with their receipts. After approximately twenty minutes, the Ministry representative reappeared and told the group the correct procedure was to submit the registration request to the Governor's office. Bensedrine produced a copy of the registration law, which clearly specified the paperwork should be filed at the Ministry of the Interior. The Ministry official again asked for time to speak with his colleagues. After half an hour, Bensedrine tried the office door of the Ministry official, only to find it locked. She knocked, but there was no response. Eventually, they left.

¶5. (C) The registration attempts of the General Tunisian Labor Confederation (CGTT) met a similar fate. CGTT founder Habib Guiza repeatedly discussed his intentions to establish a new union with key Ministry of Interior officials in 2006 and 2007, leading him to believe he would be allowed to create a new union. (Note: Unions only need to deliver documents that a new union has been established, not receive any formal registration. End Note.) Despite multiple attempts, Guiza has yet to be able to deposit the CGTT's establishment documents, which means the union is still illegal.

¶6. (C) Similar tactics have been used against the International Association for the Support of Political Prisoners (AISPP) (see Refs B, C, and D). Their various attempts to register in 2002 and 2003 never resulted in a receipt or acknowledgement of their application. With the encouragement of the Embassy, the AISPP made one final attempt in March 2004 and finally received a receipt. A few days before the 90 day deadline was set to expire, however, they received a phone call from the Ministry of the Interior telling them their application had been refused (see Ref A).

Persona Non Grata

¶7. (C) Domestic organizations are not the only groups thwarted in their attempts to register. In September 2005, Habib Ben Yahia, Minister-Diplomatic Counselor to President Ben Ali, met with International Republican Institute (IRI) Vice-President Elizabeth Dugan and then Ambassador Hudson to explore opening a local IRI office. In an October 2005 follow up meeting, IRI President Lorne Craner discussed the issue with the Tunisian Ambassador to Washington Mohamed Nejib Hachana. When IRI Executive Vice-President Judy Van Rest sent a letter to Ambassador Hachana in May 2006, indicating that IRI was prepared to submit an application to establish an IRI office in Tunis, the Tunisian Embassy sent a diplomatic note to IRI stating that Tunisian authorities were not ready to accept IRI's request, and furthermore, that IRI should not attempt to visit Tunisia.

Consequences

¶8. (C) Unregistered NGOs frequently state that they are the subject of government harassment. For example, Human Rights Watch reports that Daniel Zarrouk, first imprisoned in 1992, was convicted in four separate trials for membership in an illegal organization (in this case, the banned Islamic party an-Nahdha). (Note: Zarrouk was released in June 2007 after he received a presidential pardon. End Note.) The CNLT's unregistered status was the basis of an effort to evict them from their office space, and it complains of frequent government harassment. Journalist Lotfi Hajji, who is trying to establish an independent journalists' union, has repeatedly been summoned by the police for holding "illegal" meetings, even though some such meetings were gatherings of family members at his residence. The Ministry of Foreign Affairs frequently criticizes the Embassy for meeting with "illegal" groups such as the CNLT and the International Association for the Support of Political Prisoners (AISPP).

Comment

¶9. (C) The NGO registration issue is an example of how the GOT uses direct and indirect methods to control freedom of expression and freedom of association. As a vibrant civil society is vital to political reform and good governance, the Ambassador and other Embassy officers will continue to raise the registration issue with the GOT. We urge Washington agencies to do the same when opportunities arise. End
Comment.
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